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Written Testimony Opposing Senate Bill 16, An Act Addressing Gun Violence and Juvenile Crime

Senator Winfield, Representative Stafstrom, Ranking Members Kissel and Fishbein, and distinguished members of the Judiciary Committee:

My name is Jess Zaccagnino, and I am the policy counsel of the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony in strong opposition to Senate Bill 16, An Act Addressing Gun Violence and Juvenile Crime.

The ACLU-CT is an organization dedicated to ending mass incarceration, eliminating racial disparities in the criminal legal system, and reducing harms to justice-impacted people. Among the most vulnerable people who become enmeshed in the criminal legal system are young people under the age of eighteen, who suffer unique harms due to their involvement in the criminal legal system and are more likely to experience even wider racial disparities than exist for adults.¹

Recognizing these harms and disparities, the ACLU-CT believes that children should be supported with services and resources that support them, their families, and their communities, rather than criminalized, wherever possible. The policies proposed by Senate Bill 16, though, do not share this value; instead, this bill's proposals are primarily rooted in a criminal legal foundation. Senate Bill 16 is a problem in search of other problems. The bill is rooted in false narratives about young people. Politicians have made hyperbolic claims in the court of public opinion about the "rash" of car

¹ Colette Marcellin & Samantha Harvell, *Data Snapshot of Youth Incarceration in Connecticut*, URBAN INST. (May 2020), available at https://www.urban.org/sites/default/files/publication/102176/data-snapshot-of-youth-incarceration-in-connecticut_1.pdf.

thefts. The only problem is that there is no such “rash”—in fact, car thefts in 2020 were down 3 percent relative to 2018, after a record-setting reduction in 2019.²

Connecticut differs from much of the country in that the state has seen a substantial decline in car thefts over the last decade, including a 20 percent drop in 2019 from the previous year.³ Since the peak of car thefts in Connecticut in 1991, the state saw a 77 percent reduction in the thefts to record lows in 2019.⁴ Like the rest of the country, rates of crimes across the board have increased since the COVID-19 pandemic has wrought economic destruction upon communities.⁵ Motor vehicle thefts have increased nationally, but Connecticut’s rate of theft has remained below the national rate.⁶ A majority of these motor vehicle thefts, in fact, are committed by adults, not children under eighteen.⁷ Moreover, data analysis makes clear that any perceived uptick in car thefts has no correlation to juvenile justice reforms made over the past few years.⁸ With that understanding, it does not make sense to enact far-reaching policies which are not data-driven or services-based to solve a problem that is not, in fact, a problem. This bill contains a number of particularly problematic sections, reviewed below.

Expanded Detention of Children

Increasing Maximum Length of Juvenile Detention

The ACLU-CT opposes the expansion of the state’s ability to detain juveniles. Section 29 of this bill extends the time in which police officers may detain children from six to eight hours if a judge has yet to rule on a detention application or if the officer has

² Kelan Lyons, *New Data Show Car Thefts Are Declining, Despite a Pandemic Bump*, CT MIRROR (Mar. 19, 2021), available at <https://ctmirror.org/2021/03/19/new-data-show-car-thefts-are-declining-despite-a-pandemic-bump/>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Zach Murdock, *Connecticut Has a Teen Car Theft Problem, But It Is Not Related to State Juvenile Justice Reforms, New Analysis Finds*, HARTFORD COURANT (Mar. 26, 2021), available at <https://news.yahoo.com/connecticut-teen-cartheft-problem-162200460.html>; Giovanni Circo & Alexander Scranton, *Did Connecticut’s “Raise the Age” Increase Motor Vehicle Thefts?*, CRIM. JUST. POL’Y REV. 1 (2019).

been unable to contact the child's parent or guardian. Arbitrarily expanding the length of time in which law enforcement may detain a juvenile before a judge has ruled on the detention application from six hours to eight hours is unnecessary and does not address the underlying causes of juvenile crime.

Expansion of Serious Juvenile Offenses

Children do not belong in adult prisons, ever. According to a recent state audit, an overwhelming majority of transferred boys, and all of the transferred girls, in the adult system during 2019 lived in families previously investigated for child abuse or neglect, often multiple times.⁹ The audit found that most boys in the system completed few or no programs while incarcerated.¹⁰ Young people will most likely be unable to change behaviors until their root issues and traumas are addressed in a rehabilitative, non-carceral setting.¹¹ Connecticut disproportionately incarcerates youth of color at significantly higher rates than it does white youth.¹² When comparing young people with similar crimes and past encounters with the justice system, those who entered the adult system were 30 percent more likely to be re-arrested after returning to their community than the young people who remained in the juvenile system.¹³

Section 31 unnecessarily expands the class of offenses included as Serious Juvenile Offenses (SJOs), adding the following: failure to stop or disobeying the directions of an officer; racing and evasion of responsibility in operating motor vehicles; operating a motor vehicle knowingly in an accident that causes serious physical injury; burglary in the second degree; and second violations of larceny for motor vehicles in the first, second, and third degrees. Connecticut already designates approximately fifty

⁹ *Conditions of Confinement for Incarcerated Youth Age 15 to 21 at Manson Youth Institution and York Correctional Institution*, OFF. CHILD ADVOCATE (Nov. 2020), available at <https://portal.ct.gov/-/media/OCA/OCA-Recent-Publications/OCA-Report-MYIYCI-Nov-2020.pdf>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Lonn Lanza-Kaduce, Donna M. Bishop, Charles E. Fraizer & Lawrence Winner, *Changes in Juvenile Waiver and Transfer Provisions: Projecting the Impact in Florida*, 18 U. DENVER L. & POL'Y 137 (1996).

felonies as SJOs, where minors fifteen or older will be automatically transferred to adult court or may be transferred to adult court at the prosecutor's discretion. In 2016, SJOs made up only 7 percent of delinquency referrals.¹⁴ Evidence-based research has demonstrated that one of the worst things the state can do to juveniles charged with a crime is to transfer them to the adult carceral system. These children will not get the services they need and will instead be more likely to re-enter the system. There is no reason to expand the number of children harmed by the automatic transfer to adult court of SJOs, and as such, the ACLU-CT strongly opposes Section 31.

Electronic Monitoring

Section 32 provides for electronic monitoring in cases where there is a service gap while a child has yet to be adjudicated delinquent when cases involve violence or a repeat offense. There is little data regarding recidivism and electronic monitoring and there is no evidence demonstrating its rehabilitative effect. The financial penalties associated with electronic monitoring disproportionately fall on people of color and people with lower incomes.¹⁵ Electronic monitoring also raises significant privacy concerns because the data generated can be accessed by law enforcement and private companies, resulting in increased interactions between youth and the police.¹⁶ Additionally, the overly rigid conditions of electronic monitoring, such as obtaining approval before leaving home, or holding youth responsible when the equipment breaks, make it difficult for youth to work, change their schedules, or respond to emergencies.

¹⁴ *Facts and Figures on Connecticut's Juvenile Justice System*, CONN. OFF. POL'Y & MGMT. (last accessed Mar. 14, 2022), available at <https://portal.ct.gov/OPM/CJ-JJYD/Facts-About-Juvenile-Justice/CT-Facts--Figures-Graph-5>.

¹⁵ Leah Mack, *Electronic Monitoring Hurts Kids and Their Communities*, JUVENILE JUST. INFO. EXCHANGE (Oct. 24, 2018), available at <https://jjiie.org/2018/10/24/electronic-monitoring-hurts-kids-and-their-communities/>.

¹⁶ Kate Weisbrud, *Monitoring the Youth: The Collision of Rights and Rehabilitation*, 101 IOWA L. REV. 297 (2015), available at <https://ilr.law.uiowa.edu/print/volume-101-issue-1/monitoring-the-youth-the-collision-of-rights-and-rehabilitation/>.

This proposal is not aimed at providing the kind of support that has been proven to be most effective at extricating kids from criminal legal system involvement,¹⁷ but instead is a traditional, criminal law control and monitoring response. Electronic monitoring does not lower incarceration rates, it is not rehabilitative, and it is not cost-effective. The ACLU-CT opposes Section 32's unnecessary and invasive attempt to surveil children.

Conclusion

The ACLU-CT cannot support Senate Bill 16 because will undoubtedly result in an increased number of children entering the carceral system, rather than getting the community support and services they need. Senate Bill 16 increases the surveillance of children and opportunities for children to enter the adult carceral system without evidence that these measures will have any measurable benefit to the community. This Committee would be better served by passing legislation that expands access to social services and invests in our most vulnerable communities. The ACLU-CT, therefore, opposes Senate Bill 16 and urges this Committee to do the same.

¹⁷ *Ending the Criminalization of Youth: One Investment at a Time*, CONN. JUVENILE JUST. ALLIANCE (June 2020), available at <https://static1.squarespace.com/static/5b8413b445776e48dcfec417/t/5ef33ed080c2046beb6c0723/1592999680513/VSP+-+Ending+the+Criminalization+of+Youth%2C+One+Investment+at+a+Time.pdf>.